

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013100421

NOTICE CONCERNING AGREEMENT
TO USE MEDIATION IN LIEU OF
RESOLUTION SESSION

On October 18, 2013, the parties submitted a joint request to set mediation in this matter on October 30, 2013, a date that falls within the 30-day resolution session period in this matter. Attached to the joint request was a letter clarifying that the parties were waiving resolution session and desired to proceed directly to mediation in lieu of the resolution session.

APPLICABLE LAW AND DISCUSSION

A school district must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1),(2).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (*Id.* at § 300.510 (a)(3)(i)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id.* at § 300.510(c)(1).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (*Id.* at § 300.510(c).)

When the parties agree in writing to waive a resolution session, the Office of Administrative Hearings (OAH) will move forward the dates for mediation, prehearing conference, and hearing to accommodate the beginning of the 45-day timeline for hearing. In this case, the parties expressly requested mediation in lieu of the resolution session. Accordingly, this request is treated as an agreement to use mediation instead of a resolution session under 34 Code of Federal Regulations part 300.510(a)(3)(ii), and not a waiver of the resolution session under part 300.510(a)(3)(i) and (c)(1). As a result, the timeline governing this matter does not change. OAH will issue a notice setting mediation on October 30, 2013.

Dated: October 22, 2013

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings